Political Activities by Members of the Armed Forces

Lt Col Reggie Yager
Deputy Director, Office of Legal Policy
Office of Under Secretary of Defense for Personnel & Readiness
This stuff really happens…
A picture is worth a thousand words
Your Mission

- Help identify and prevent **hi-vis issues**
- Draw a clear line between **permissible and prohibited** political activities for military members
- Provide **preventive guidance/training**
- If a violation occurs, ensure proper corrective action taken and necessary training provided
- Keep on your radar screen...not confined to campaign season
References

• Political Activities by Military Personnel and on Military Installations
  – 2016 PAG: *DoD Public Affairs Policy Guidance Concerning Political Campaigns and Elections*
  – DoD Instruction 1334.01, “Wearing of the Uniform” (plus NAVPER 156651; MCO P1020.34G)
  – Service-specific Guidance on Use of DoD Facilities
Who does DoDD 1344.10 Apply To?

• Primarily Members of the Armed Forces on Active Duty

• Expands coverage for some provisions to include Service members not on Active Duty – even retirees

• Defines Active Duty to include full-time National Guard duty
• 4.1.1 Permissible Activities
• 4.1.2 Prohibited Activities
• 4.2 Nominees or Candidates
• 4.3 Additional Limitations: Nominees, Candidates, Campaigning
• 4.4 Holding and Exercising U.S. Government Office
• 4.5 Holding and Exercising State or non-U.S. Government Office
Key Issues

• Political Activities by Military Personnel
  – Do’s and Don’ts
  – Wearing of the Uniform

• Political Activities on Military Installations
  – Official vs. campaign visits to installations
  – Use of DoD facilities for partisan and nonpartisan political activities

• Political Activities and Use of Social Media
DoD Policy

• Members on Active Duty should not engage in partisan political activity, and members not on active duty should avoid inferences that their political activities imply or appear to imply official sponsorship, approval, or endorsement. DoDD 1344.10, para 4.

• Members of the Armed Forces may not wear the uniform during or in connection with furthering political activity or when an inference of official sponsorship for the activity may be drawn. DoDI 1334.01, para 3.1.2.
“Partisan political activity” is activity supporting or relating to candidates representing, or issues specifically identified with, national State political parties and associated or ancillary organizations or clubs.  

DoDD 1344.10 Enclosure 2 (Definitions)
Permissible Activities by Members on Active Duty

- Register and vote
- Express personal political opinion
  - In personal capacity – Caution!
- Encourage others to participate in political process
- Sign a petition for a specific legislative action
  - As private citizen
- Write letter to editor
  - Not part of organized letter-writing campaign
  - Can't solicit votes
  - Disclaimer required
Permissible Activities by Members on Active Duty

• Donate money to political organization, party, or committee
  – Caution – Member on AD cannot give to or receive from another member on AD
  – Caution – Members not on AD must consider JER
Permissible Activities by Members on Active Duty

- Display normal sized bumper sticker on car
PROHIBITED Activities by Members on Active Duty

• Participate in partisan political fundraising activities
• Publish partisan political articles, letters, or endorsements that solicit votes
• Speak before a partisan political gathering
• Participate in any radio, television, or other program or group discussion as an advocate for partisan party, candidate, or cause
• Engage in fundraising activities for any political cause or candidate on military installation
• Display partisan political sign, poster, banner visible to public in military installation housing
Activities not expressly prohibited may be contrary to the spirit and intent of this Directive (DoDD 1344.10). Any activity that may be reasonably viewed as directly or indirectly associating the Department of Defense or any component of these Departments with a partisan political activity or is otherwise contrary to the spirit and intention of this Directive shall be avoided. *DoDD 1344.10, para 4.1.5*
Criticism of Senior Government Officials

• UCMJ, Art 88 – Contempt Toward Officials
  – President
  – Vice President
  – Secretary of Defense
  – Secretary of a Military Department
  – Congress
  – Secretary of Transportation
  – Governor or legislature (when on duty or present in State, Territory, possessions)

• Applicable to Commissioned Officers
Ripped from the headlines...

Marine Sgt. Gary Stein should go for criticizing Obama on Facebook, Board says

(AP) CAMP PENDLETON, Calif. - A military board has recommended dismissal for a Marine sergeant who criticized President Obama on his Facebook page, including allegedly putting the president's face on a "Jackass" movie poster.

The Marine Corps administrative board said after a daylong hearing late Thursday at Camp Pendleton that Sgt. Gary Stein has committed misconduct and should be dismissed.

The board also recommended that Stein be given an "other than honorable" discharge. That would mean Stein would lose his benefits and would not be allowed on any military base.

The board's recommendations go to a general who will either accept or deny them. If the general disagrees with the board, the case could go to the secretary of the Navy.

Anti-Obama Marine spurs possible DoD review

By Gina Helfrich - Staff writer

This Week's Issue

The Marine Corps is recommending an update to the Defense Department directive that landed an anti-Obama Marine in hot water.

Major Gen. Vaughn Ayre, staff judge advocate to the commandant, is asking DoD to incorporate social media guidelines in its policy covering political activity in uniform.

Ayre's call for review was spelled out in a letter he sent to Rep. Duncan D. Hunter, R-Calif.

The Congressman's spokesman provided the letter to Marine Corps Times.

The letter stated that Marine Corps staff was being instructed to contact the Defense Department to recommend an update to "provide service members with additional guidance on how to use social media in a responsible manner."

This came in response to a letter Hunter sent Tuesday urging the Corps to withdraw the discharge proceedings against Stein and to update the directive. Hunter spoke out in Stein's defense last week, stating that the Corps would lose the majority of its force if they kicked everyone out based on political speech.

DoD directive 1344.10 is the one Ayre is suggesting be changed. It addresses appropriate political activities for service members. Stein was told he violated Article 82 of the Uniform Code of Military Justice by failing to adhere to DoD Directive 1344.10 after criticizing President Obama on Facebook.

Ayre does not advocate for Stein in the letter.

I am confident that the leadership at [Marine Corps Recruit Depot] San Diego will make the very best decision in Sgt. Stein's case in accordance with time-honored and well-known Marine Corps standards," the letter states.

Stein issued a Marine Corps administrative separation report Thursday.
Nominees or Candidates On Active Duty

- Regular; Retired Regular or RC member on AD call or order > 270 days
  - Requires Secretary Concerned permission
  - Cannot be delegated below Secretary Concerned

- Retired Regular or RC member on AD call or order ≤ 270 days
  - No permission required

- All must complete Acknowledgement of Limitations (Enclosure 4 of DoDD 1344.10)
Nominees or Candidates Not On Active Duty

• May use military rank and service affiliation
  – But clearly indicate retired or reserve status

• In campaign material:
  – Include current or former duty titles and positions with other biographical information
  – Include “prominent and clearly displayed disclaimer”
  – Photographs may NOT be “primary graphic representation”
Nominees or Candidates On Active Duty

• Limitations:
  – No campaign activity
  – No work behind the scenes
  – Must document efforts to inform campaign workers of limitations
  – Freeze Web sites, stop advertisements
Social Media and Political Activities

Facebook
Facebook helps you connect and share with the people in your life.

Twitter

Linkedin

Instagram
Social Media and Political Activities

• May an AD member express his or her own personal views on public issues or political candidates via social media platforms, such as Facebook, Twitter, or personal blogs?
  – Yes, personal views OK, much the same as writing a letter to the editor of a paper, but may not engage in any partisan political activity
  – “Partisan political activity” is activity directed at the success or failure of a political party, partisan political candidate, campaign, group or cause
  – Cannot solicit others, fundraise, etc.
  – If identifiable as military must disclaim
  – No direct links of “likes” to partisan sites (akin to distribution of literature)

• May an AD member become a “friend” of, or “like,” the Facebook page, or “follow” the Twitter account of a political party or partisan candidate, campaign, group, or cause?
  – Yes, but must refrain from engaging in activities with respect to partisan political entities’ accounts that would constitute political activity
  – Cannot suggest that others “like”, “friend” or “follow” the partisan account
  – Cannot forward invitations to partisan events, solicit or fundraise
Use of DoD Facilities and Resources

• No use of installation or facilities by candidates or for campaign activities
  – Consult PA Guidance on Installation Visits by elected officials and candidates
  – is intended to assist installation commanders by drawing bright and clear lines, insulate military members/federal employees from partisan politics
  – Just say no to press participation in such cases

• Command newspapers – no campaign news, discussions, cartoons, endorsements, editorials

• No official support for off-post partisan events (unless clear exception applies)
Visits by Candidates to DoD Installations and Facilities

• Installation visit by candidates
  – Distinguish type of visit:
    • Official government visits = Yes
      – Senator participates in “Town Hall” on Military Family issues
    • Personal visit = Yes
      – MOC Reservist goes to fitness center
    • Campaign visit or event = No*

* While DoD policy cannot restrict a sitting President, given the prohibitions the Hatch Act and DoDI 1344.10 place on individuals, it would be imprudent for a sitting president to campaign on a military installation as it would expose individuals to violations of said rules.
Decommissioned Vessel
Servicemembers in Campaign Materials
We honor our warriors, friends who paid the ultimate price serving our nation. We will never forget their selfless sacrifice.

#MemorialDay
Welcome

Hi, I’m Kirk Lippold, retired Navy Commander and proud Nevadan. Thanks for visiting my website and giving me the chance to share some of my ideas and conservative vision for the future of Nevada and our great nation.

As you know, the challenges facing us are daunting. Too many Nevadans are out of work, have lost their homes to foreclosure, or seen their retirement savings dwindle to nothing. Righting the ship won’t be easy and it won’t be done overnight, but it will be done. No matter how tough things appear, I remain optimistic. After all, we’re Americans and we’re Nevadans. There is, simply, no challenge we cannot overcome. I believe a big reason for our current situation is the lack of strong, conservative leadership from our elected officials who believe government solves all problems. I don’t. Plain and simple, I believe government needs to get off the backs of the taxpayer.

I know what it means to lead Americans into dangerous, hostile environments and that bold and decisive leadership can mean the difference between life and death, between victory and defeat. I know that it is leadership, not political rhetoric that will lead Nevada back to its status as the greatest, most dynamic state in the union.

I’ve never run for public office before. I’m not a career politician and I don’t intend to be one. But there are times when the call to serve cannot be ignored. This is one of those times.

Sincerely,

Commander Kirk Lippold
Micah Edmond
For Congress

Marine Corps Veteran & Congressional Staff
House Armed Services and House Veterans Affairs Committees

Government Employee
President Obama's Simpson-Bowles Commission & Congress' Joint Select Committee on Deficit Reduction

Advocate for Virginia's Defense Industry
Aerospace Industries Association, Assistant Vice President Industrial Base Policy

Small Business Owner
Edmond and Co., Founder and CEO
Cote for Congress
Real Experience, Real Solutions

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Politica mud on his uniform

Retired admiral running for Congress receives GOP flak for event attire

By William H. McMichen and Mark D. Farmer

Is it inappropriate for a retired officer running for Congress to wear his uniform during Memorial Day events that fall during the campaign? That depends on a number of things – most importantly, whether retired Rear Adm. Joe Sestak or his staff did any actual campaigning.

Pennsylvania's Republican leadership thinks they did. So does the 79-year-old GOP incumbent in the state’s 7th District, Rep. Curt Weldon.

Sestak, the Democrat who will face off with Weldon in the November general election, says it didn’t happen.

All agree that Sestak wore his summer whites during two Memorial Day events: May 27 in Marcus Hook, a small borough southeast of Philadelphia; and May 30 in Springfield Township, another Philly suburb.

But Sestak says he wasn’t campaigning at the time, had his uniform, and the events were set by the Navy and did not involve any of his contractors’ work.

"I marched in many parades over the years," Sestak said. "I’ve been asked numerous times to wear my uniform, and I’ve always declined." He added, "We were in the parade, surrounded by his campaign workers, and he wants to put his uniform in the campaign materials." Barlet, Weldon’s campaign manager, admitted to wearing "in the parade, but it wasn’t part of the campaign.""What are you talking about?" Barlet said.

Sestak and Weldon both say a memorandum of service was held during each event.

But McMichen and Farmer also learned that for weeks, Weldon’s staff wore white uniforms to ad the public to the Weldon campaign.

A spokesman for Weldon, also a former military officer, said, "We made sure we were on the same page with the Navy ... we did it just right. There was absolutely no conflict – it was exactly what he said, and we accepted the uniform, and we knew about the regulations when he was in the Navy."

Sestak’s campaign manager, who is also running for Congress, says the regulations are simply not followed.

"There was an issue with the uniform, which was not followed by the candidates," Sestak said. "But the regulations were not violated, and the candidates did not wear the uniform during the campaign."
Let’s Move Forward
...Together!

ELECT GEORGE F.
Bowman
JEFFERSON COUNTY COMMISSIONER 2008
Takeaways

• Be proactive and prevention-minded advisor
• Work closely with commanders & Public Affairs
• When in doubt, ask for advice; raise issues through Service legal advisors first; they will reach out to OSD PA and Legal Policy
• Recommend what you believe is the right call
Good Luck!

No School
Election Day